

TITLE 13

PUBLIC IMPROVEMENTS

CHAPTER 13.04

LOCAL IMPROVEMENT DISTRICTS - ASSESSMENTS

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13.04 Local Improvement Districts - Assessments

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13.04.010 State Provisions

Whenever the City Council provides for making local improvements and for paying the whole or any portion of the cost and expense thereof by levying and collecting special assessments on property especially benefited, the proceedings therefor shall be in accordance with the provisions of RCW Chapters 35.43, 35.44, 35.45, 35.49, 35.50 and 35.53, and the provisions of TMC Chapter 13.04.

(Ord. 322 §1, 1961)

13.04.020 Initiation and Order of Improvement

Any such improvement may be initiated either upon petition or by resolution therefor, but such improvement may be ordered only by ordinance.

(Ord. 322 §2 (part), 1961)

13.04.030 Initiation by Petition

In case the improvement is initiated by petition, such petition shall be presented to and filed with the City Clerk, or such other officer as may be designated by the City Council. The City Supervisor shall thereupon examine such petition, determine the sufficiency thereof and ascertain if the facts therein stated are true, and shall cause an estimate of the cost and expense of such improvement to be made and shall transmit the same to the City Council, together with all papers and information in his possession regarding the same, together with his recommendations thereon and a description of the boundaries of the district and a statement of the proportionate amount of the cost and expense of such improvement which shall be borne by property within the proposed assessment district, and a statement of the actual valuation of the real estate, including 25% of the actual valuation of the improvements in such proposed district according to the valuation last placed upon it for purpose of general taxation, together with all other outstanding and unpaid local improvement assessments against the property included in the district, excluding penalties and interest; and in case the said petition is sufficient, shall also submit a diagram showing thereon the lots, tracts or parcels of land and other property which will be specially benefited thereby and the estimated amount of the cost and expense of such improvement to be borne by each lot, tract or parcel of property; provided, that no such diagram shall be required where such estimates are on file in the office of the City Supervisor, or other designated City office, together with a detailed copy of the preliminary assessment roll and the plans and assessment maps of the proposed improvement.

(Ord. 322 §2(part), 1961)

13.04.040 Initiation by Resolution

A. The City Council may initiate such improvement directly by resolution declaring its intention to order such improvement, and setting forth the nature and territorial extent thereof and notifying all persons who may desire to object thereto to appear and present such objections at a meeting of the City Council, or a committee thereof, at the time specified in the resolution. The resolution shall be published in at least two consecutive issues of the official newspaper of the City, or, if there is no official newspaper, in a newspaper of general circulation within the City, and the date of hearing thereon shall be at least 15 days after the date of the first publication of the same. The City Supervisor shall submit to the City Council, at or prior to the date fixed for the hearing, the same data and information required to be submitted in the case of a petition.

B. Notice of the hearing upon the resolution shall be given by mail at least 15 days before the day fixed for hearing to the owners or reputed owners of all lots, tracts, and parcels of land or other property to be specially benefited by the proposed improvement, as shown on the rolls of the County Treasurer, directed to the address thereon shown. The notice shall set forth the nature of the proposed improvement, the estimated cost, and the estimated benefits of the particular lot, tract, or parcel.

(Ord. 322 §2 (part), 1961)

13.04.050 Authorization by Ordinance

The City Council may, by ordinance, authorize the making of any such improvement and, in case of an improvement initiated by resolution of the City Council, such ordinance may be passed on or at any time after the date of the hearing specified in the resolution.

(Ord. 322 §2 (part), 1961)

13.04.060 LID Establishment

Every ordinance ordering a local improvement to be paid in whole or in part by assessments against the property specially benefited shall establish a local improvement district to be known as "Local Improvement District No. _____," which shall embrace as nearly as practicable all the property specially benefited by the improvement.

(Ord. 322 §3(part), 1961)

13.04.070 LID Property Inclusions

Unless otherwise provided in the ordinance ordering the improvement, the improvement district shall include all the property between the termini of the improvement abutting upon, adjacent, vicinal, or proximate to the street, avenue, land, alley, boulevard, park drive, parkway, public place or square proposed to be improved to a distance of 90 feet back from the marginal lines thereof or to the centerline of the blocks facing or abutting thereon, whichever is greater (in the case of unplatted property, the distance back shall be the same as in the platted property immediately adjacent thereto); provided, that if the local improvement is such that the special benefits resulting therefrom extend beyond the boundaries as above set forth, the Council may create an enlarged district to include as nearly as practicable all the property to be specially benefited by the improvement; the petition or resolution for an enlarged district and all proceedings pursuant thereto shall conform as nearly as is practicable to the provisions relating to local improvement districts generally, except that the petition or resolution must describe it as an enlarged district and state what proportion of the amount to be charged to the property specially benefited shall be charged to the property lying between the termini of the proposed improvement and extending back from the marginal lines thereof to the middle of the block (or 90 feet back) on each side thereof, and what proportion thereof to the remainder of the enlarged district; provided further, that whenever the nature of the improvement is such that the special benefits conferred on the property are not fairly reflected by the use of the aforesaid termini and zone method, the ordinance ordering the improvement may provide that the assessment shall be made against the property of the district in accordance with the special benefits it will derive from the improvement without regard to the zone and termini method.

(Ord. 322 §3 (part), 1961)

13.04.080 Determination of Authority

All local improvements, funds for the making of which are derived in whole or in part from assessments upon property specially benefited, shall be made either by the City itself or by contract upon competitive bids in the manner provided by law. The City Council shall determine whether such local improvement shall be done by contract or by the City itself.

(Ord. 322 §4, 1961)

13.04.090 Cost

The cost and expense of any such improvement, or such portion thereof as the City Council may determine to be assessed, shall be distributed and assessed against all the property included in such local improvement district, in accordance with the special benefits conferred thereon, and in the manner provided by law.

(Ord. 322 §5, 1961)

13.04.095 Assessment Roll – Hearing and Appeal

At the time fixed for hearing on the assessment roll and at the times to which such hearing may be continued, the City's Hearing Examiner shall consider all objections timely filed with the City Clerk pursuant to RCW 35.44.080, following which the Hearing Examiner shall make recommendations that the City Council correct, revise, raise, lower, change or modify the roll or any part thereof, or set aside the roll and order the assessment to be made de novo, or that the Council adopt or correct the roll or take other action on the roll. The City Council shall adopt or reject the recommendation of the Hearing Examiner at a public meeting; provided, that any person who shall have challenged his or her assessment before the Examiner, may appeal the recommendation of the Hearing Examiner to the City Council by filing written notice of such appeal with the City Clerk within 10 calendar days of the date of mailing of the Hearing Examiner's recommendation. The appeal shall be upon the record made before the Hearing Examiner, based on a preponderance of evidence standard and shall be considered by the Council at a public meeting in accordance with the City Council's rules of procedure. Confirmation of the roll shall be by ordinance.

(Ord. 2397 §1, 2013)

13.04.100 Bonds - Payment of Cost

The City Council may provide by ordinance for the payment of the whole or any portion of the cost and expense of any local improvement by bonds of the improvement district, but no bonds shall be issued in excess of the cost and expense of the improvement, nor shall they be issued prior to 20 days after the 30 days allowed for the payment of assessments without penalty or interest.

(Ord. 322 §6, 1961)

13.04.110 Bonds - Issuance and Sale

A. Local improvement bonds may be issued to the contractor or sold by the officers authorized by the ordinance directing their issue to do so, in the manner prescribed therein, and at not less than par and accrued interest. Any portion of the bonds of any issue remaining unsold may be issued to the contractor constructing the improvement in payment thereof.

B. The proceeds of all sales of bonds shall be applied in payment of the cost and expense of the improvement.

(Ord. 322 §7, 1961)

13.04.120 Warrants - Payment of Cost

The City Council may provide by ordinance for the issuance of warrants in payment of the cost and expense of any local improvement, payable out of the local improvement district fund. The warrants shall bear interest at the rate of not to exceed 8% per year and shall be redeemed either in cash or by local improvement bonds for the same improvement authorized by ordinance.

(Ord. 322 §8, 1961)

13.04.130 Warrants Deemed Claims and Liens

All warrants against any local improvement fund sold by the City or issued to a contractor and by him sold or hypothecated for a valuable consideration shall be claims and liens against the improvement fund against which they are drawn prior and superior to any right, lien or claim of any surety upon the bond or bonds given to the City by or for the contractor to secure the performance of his contract or to secure the payment of persons who have performed work thereon, furnished materials therefor, or provisions and supplies for the carrying on of the work.

(Ord. 322 §8 (part), 1961)

13.04.140 Assessment Funds - Collection

A. All assessments for local improvements shall be collected by the City Treasurer and shall be kept in a separate fund to be known as "Local Improvement Fund, District No. ," and shall be used for no other purpose than the redemption of warrants drawn upon and bonds issued against the fund to provide payment for the cost and expense of the improvement.

B. As soon as the assessment roll has been placed in the hands of the City Treasurer for collection, he shall publish a notice in the official newspaper of the City for ten consecutive daily or two consecutive weekly issues, or if there is no official newspaper, in a newspaper of general circulation within the City, that the roll is in his hands for collection and that any assessment may be paid within 30 days from the date of the first publication of the notice without penalty, interest or costs.

(Ord. 322 §9 (part), 1961)

13.04.150 Payment Installments

In all cases where bonds are issued to pay the cost and expense of a local improvement, the ordinance levying the assessments shall provide that the sum charged against any lot, tract, and parcel of land, or other property, or any portion thereof, may be paid during the 30-day period allowed for the payment of assessments without penalty or interest and that thereafter the sum remaining unpaid may be paid in equal annual installments. The number of installments shall be less by two than the number of years which the bonds issued to pay for the improvements are to run. Interest on the whole amount unpaid at the rate fixed by the ordinance shall be due on the due date of the first installment of principal and each year thereafter on the due date of each installment of principal.

The first installment shall become due and payable during the 30-day period succeeding a date one year after the date of first publication of the Treasurer's notice, as provided in TMC 13.04.140, and annually thereafter each succeeding installment shall become due and payable in like manner. If the whole or any portion of any assessment remains unpaid after the first 30-day period herein provided for, interest upon the whole unpaid sum shall be charged at the rate to be fixed by ordinance, and each year thereafter one of said installments, together with interest due upon the whole of the unpaid balance, shall be collected. Any installment not paid prior to the expiration of the 30-day period during which such installment is due and payable shall thereupon become delinquent. All delinquent installments shall be subject to a charge for interest at the rate fixed on the unpaid balance of the roll and to an additional charge of not less than 8% penalty levied upon both principal and interest due on such installment or installments. The exact penalty shall be stated in the ordinance approving and confirming the assessments and assessment roll for said LID.

*(Ord. 1348 §1, 1985; Ord. 1256, 1982;
Ord. 322 §10, 1961)*

13.04.160 Report of Collection on Bond Installment

In case the improvement is made on the bond installment plan, the City Treasurer shall, at the expiration of 30 days after the first publication of the notice to pay assessment, report to the City Council the amount collected by him upon the roll and shall specify in the report the amount remaining unpaid upon the roll, and the City Council may then, or at a subsequent meeting, by ordinance direct the Mayor and City Clerk to issue the bonds on the local improvement district established by the ordinance ordering the improvement in an amount equal to the amount remaining unpaid on said assessment roll. The ordinance shall specify the denomination of the bonds which, except for bond numbered "one," shall be in multiples of \$100.00 each.

(Ord. 322 §11, 1961)

13.04.170 Bond Form

A. All bonds, unless otherwise specially ordered by the council, issued in pursuance of the provisions of TMC Chapter 13.04, may be in substantially the following form:

"No. _____\$
 UNITED STATES OF AMERICA
 STATE OF WASHINGTON
 LOCAL IMPROVEMENT BOND
 LOCAL IMPROVEMENT DISTRICT NO. _____

N.B. This bond is issued by virtue of the provisions of RCW 35.45.010 et seq., §35.45.070 of which reads as follows:

Neither the holder nor the owner of any bond or warrant issued under the provisions of this act shall have any claim therefor against the City or town by which the same is issued, except for payment from the special assessments made for the improvement for which said bond or warrant was issued, and except as against the local improvement guaranty fund of such City or town and the City or town shall not be liable to any holder or owner of such bond or warrant for any loss to the guaranty fund occurring in the lawful operation thereof by the City or town. The remedy of the holder or owner of a bond or warrant in case of nonpayment shall be confined to the enforcement of the assessment and to the guaranty fund.

The City of Tukwila, a municipal corporation of the State of Washington, hereby promises to pay to _____ or bearer _____ dollars (\$_____), in lawful money of the United States, with interest thereon at the rate of _____% per annum, payable annually out of the fund established by Ordinance No. _____ of said City, and known as "Local Improvement Fund, District No. _____" and not otherwise, except from the guaranty fund, as herein provided. Both principal of and interest on this bond are payable at the office of the City Treasurer of said City.

A coupon is hereto attached for each installment of interest to accrue hereon and said interest shall be paid only on presentation and surrender of such coupon to the City Treasurer.

This bond is payable on the ____ day of _____, 19, but is subject to call by the City Treasurer of said City whenever there shall be sufficient money in said local improvement fund to pay the same and all unpaid bonds of the series of which this bond is one, which are prior to this bond in numerical order, over and above sufficient for the payment of interest on all unpaid bonds of said series. The call for payment of this bond, or of any bond of the series of which this is one, shall be made by the City Treasurer by publishing the same once in the official newspaper, or, if there is no official newspaper, in a newspaper of general circulation within the City, and when such call is made for the payment of this bond it will be paid on the day the next interest coupon thereon shall become due

after said call and upon said day interest upon this bond shall cease and any remaining coupons shall be void.

The City Council of said City, as the agent of said Local Improvement District No. _____, established by Ordinance No. _____, has caused this bond to be issued in the name of said City as the bond of said Local Improvement District, the bond or the proceeds thereof to be applied in part payment of so much of the cost and expense of the improvement of _____ under said Ordinance No. _____ as is levied and assessed against the property included-in said Local Improvement District No. _____ and benefited by said improvement, and the said Local Improvement Fund has been established by ordinance for said purpose; and the holder or holders of this bond shall look only to said fund and to the Local Improvement Guaranty Fund of the City of Tukwila for the payment of either the principal of or interest on this bond.

This bond is one of a series of _____ bonds aggregating in all the principal sum of _____ dollars (\$_____), all of which bonds are subject to the same terms and conditions as herein expressed.

IN WITNESS WHEREOF, the City of Tukwila has caused these presents to be signed by its Mayor and attested by its City Clerk and sealed with its corporate seal this ____ day of _____, 19_.

City Of Tukwila, Washington

By _____
 Mayor

Attest:

By _____
 "City Clerk"

B. There shall be attached to each bond such a number of coupons as shall be required to represent the interest thereon, payable either annually or semiannually as the case may be, for the term of said bonds, which coupons shall be substantially in the following form:

"On the _____ day of _____, 19__ the City of Tukwila, State of Washington, promises to pay to the bearer at the office of the City Treasurer _____ dollars (\$_____), being (six) (twelve) months' interest due that day on Bond No. _____ of the bonds of Local Improvement District No. ____ and _____ not otherwise, provided that this coupon is subject to all the terms and conditions contained in the bond to which it is annexed, and if said bond shall be called for payment before maturity hereof, then this coupon shall be void.

City Of Tukwila, Washington
By _____
Mayor

Attest:
By _____
City Clerk"

C. The City Treasurer shall keep in his office a register of all such bonds in which he shall enter the local improvement district for which the same are issued, and the date, amount and number of each bond and the terms of payment.

(Ord. 322 §12, 1961)

13.04.180 Chapter Application

The laws of the State and the provisions of TMC Chapter 13.04 shall be applicable to all local improvements and proceedings therein initiated by petition or resolution subsequent to the passage and legal publication or posting of the ordinance codified herein, including Local Improvement District No. __, and all proceedings and the manner of the collection and enforcement of all assessments in such proceedings shall be in compliance therewith.

(Ord. 322 §14, 1961)

13.04.190 Delinquent Assessment - Foreclosure

If, on the first day of January in any year, two installments of any local improvement assessment are delinquent, or if the final installment thereof has been delinquent for more than one year, the City Attorney is authorized to commence foreclosure proceedings on the delinquent assessment or delinquent installments by an appropriate action on behalf of the City in King County Superior Court. Such foreclosure proceedings shall be commenced on or before July 1 of each year

(Ord. 1348 §2, 1985)

13.04.200 Delinquent Assessment - Notice to Property Owner

The City Finance Director shall send by certified mail to each person whose name appears on the assessment roll and/or tax rolls as owner of the property charged with any delinquent assessment or installment, at each address listed on said assessment roll and/or County tax roll, a notice at least 30 days before commencement of any action to foreclose a delinquent assessment or installment. The notice shall state the amount due on each separate lot, tract or parcel of land, and the date after which the foreclosure proceedings will commence.

(Ord. 1348 §3, 1985)

13.04.210 Delinquent Assessment - Acceleration of Installments - Attorneys' Fees

In any action brought for the foreclosure of a delinquent assessment or installment, future installments not otherwise due and payable may, at the election of the City, be accelerated and the entire balance of the assessment with interest, penalty and cost shall become due and payable and the collection thereof shall be enforced by foreclosure as set forth in TMC Chapter 13.04; provided, however, that in the case of such foreclosure there shall be added to the cost and expense as provided by RCW Chapter 35.50 such reasonable attorneys' fees as the court may adjudge to be equitable.

(Ord. 1348 §4, 1985)

13.04.220 Delinquent Assessment - Applicability

The provisions of TMC Chapter 13.04 shall govern the collection by foreclosure of any and all assessments or installments that were delinquent as of January 1, 1985, as well as subsequent delinquent assessments or installments.

(Ord. 1348 §5, 1985)